

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **October 20, 2003, Work Session and Regular Meeting**

AGENDA ITEM NO.: 13

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Chapter 11, Building Ordinance**

RECOMMENDATION: 1) Repeal existing ordinance in its entirety to prepare for adoption of rewrite of this section. 2) Adopt revised Chapter 11, Building ordinance.

PRIOR ACTIONS: In 1994, the three model code groups in the United States began a movement to combine their efforts and develop one code that would be acceptable throughout the United States. The Commonwealth of Virginia through the Department of Housing and Community Development, responsible for administering the building codes, has adopted the 2000 version of the International Codes for use in this state beginning October 1, 2003. The revised ordinance that is before you is the result of incorporating language that is compatible with this set of new codes, allows for adoption of state mandated revisions to this code in the future without ordinance revisions and addresses issues related to building code enforcement that will ensure that the City of Lynchburg complies with all current requirements to fully enforce the provisions of the Virginia Uniform Statewide Building Code. Major revisions of this ordinance have necessitated both a revision of language and re-numbering of reference numbers for this code. These efforts will be highlighted below in an outline of the major revisions.

FISCAL IMPACT: None.

CONTACTS: Rachel Flynn (847-1435 ext. 253), Karl Cooler (847-1572 ext. 248)

ATTACHMENTS:

Bulleted Highlights of Changes to Chapter 11.

Revised Chapter 11, Building Ordinance

REVIEWED BY: lkp

Chapter 11 – Major Changes to Ordinance

1. Improved Index to Chapters.

- Index has been expanded to give quicker reference to sections.
- Chapters have been reorganized and re-numbered to provide a compatibility within topics.

2. Adoptions of Applicable Sections Clearly defined.

- The USBC provides that the adoption of Parts I, Administration, & II, Construction Regulations, are mandatory. Part III, Maintenance of Existing Structures must be adopted separately as a local option. The adoption of Part III is clearly spelled out in Section 11-2.
- The ordinance contains language, in sections 11-1 and 11-2 that allows for future amendments and updates to the code at the state level to be automatically incorporated into city code without the need for re-writes to this ordinance.

3. Redundant language has been eliminated wherever possible in the code to minimize conflicts.

- Violations, Section 11-9.
- Reference is more to adoption of the USBC and not towards the specific codes and editions.

4. Authority To Take Actions is Defined.

- USBC Section 105.3 requires that localities specifically give the building official authority to issue a summons or warrant for violations. Section 11.51 addresses this issue.
- Sections 11-53 & 11-54 give the building commissioner authority to revoke or suspend certificates of occupancy and business licenses for persons who failure to comply with the provisions of the USBC and city ordinances.
- USBC Section 130.6.2 requires that the locality specify the extent to which the building commissioner is authorized to make emergency repairs to existing structures. Section 11-55 addresses this issue.
- USBC Section 130.6.4 requires that the locality specify that the building commissioner has the authority to perform emergency demolitions. Section 11-56 addresses this issue

5. Building Commissioner.

- The building commissioner serves as the building official and the building maintenance official. When the term building commissioner is used, it is being applied to duties performed by both the building official and building maintenance official.

6. Contractor and Bonding Requirements are Clarified.

7. Rental Property Inspection Program Is Re-numbered and Copied To Article III.

8. Vacant Property Registration Program Is Re-numbered and Copied To Article IV.

AN ORDINANCE TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG BY REPEALING CHAPTER 11, BUILDING, SECTIONS 11-1 THROUGH 11-294, AND TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY ADDING THERETO, CHAPTER 11, BUILDING, SECTIONS 11-1 THROUGH 11-220, THE REPEALED AND THE NEW SECTIONS RELATING TO BUILDING CODE EFFORCEMENT WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Chapter 11, Building, Sections 11-1 through 11-294 of the Code of the City of Lynchburg, 1981, be and the same are hereby repealed.
2. That Chapter 11, Building, Sections 11-1 through 11-220, of the Code of the City of Lynchburg, 1981, be and the same are hereby added to the City Code as follows:

Chapter 11 – BUILDING

Art. I. In General, 11-1 – 11-30.

11-1	Construction Regulations Adopted.
11-2	Maintenance Of Existing Structures Regulations Adopted.
11-3	Code Remedial.
11-4	Scope.
11-5	Administrative Regulations.
11-6	Retaliation Against Tenants Prohibited.
11-7	Requirements Not Covered By Code.
11-8	Liability.
11-9	Violation Penalties.
11-10	Conflicts.
11-11-30	Reserved.

Art. II. Administration and Enforcement. 11-31 – 11-160.

Div. 1. Division of Inspections, 11-31 - 11-50.

11-31	Building Commissioner.
11-32	Delegation of Duties And Responsibilities.
11-33	Deputy.
11-34	Restrictions On Employees.
11-35	Reports.
11-36-50	Reserved.

Div. 2. Enforcement Authority, 11-51 – 11-70.

11-51	Notice of Violation – Failure To Comply.
11-52	Refusal To Issue Certificate Of Occupancy.
11-53	Revocation Of Certificate Of Occupancy.
11-54	Suspension Or Revocation Of Business License.
11-55	Emergency Repairs.
11-56	Public Removal.
11-57-70	Reserved.

Div. 3. Contractor and Bonding Requirements, 11-71 – 11-100.

- 11-71. Applicability To Homeowners.
- 11-72. Contractor's License Required.
- 11-73. Business License Required.
- 11-74. Surety Bond Required.
- 11-75. Bond Renewal.
- 11-76. Limit Of Liability.
- 11-77. Use of Name Or License By Others Prohibited.
- 11-78. Master Tradesman In Control Of Work.
- 11-79. Building Official May Refuse Permits For Non-Compliance.
- 11-80. When Issuance Prohibited.
- 11-81. Permits Not transferable; Responsibility For Work.
- 11-82-100 Reserved.

Div. 4. Technical Provisions, 11-101 – 11-120.

- 11-101. Suitable Zone On Each Pole To Be Reserved For City.
- 11-102. Construction In Streets And Public Places.
- 11-103. Repair Of Existing Buildings.
- 11-104. Termination Of Service For Dangerous Conditions.
- 11-105-120. Reserved.

Div. 5. Permits, 11-121 – 11-140.

- 11-121. Failure To Obtain.
- 11-122. Building Valuations.
- 11-123. Demolition Permits.
- 11-124-140. Reserved.

Div. 6. Board of Building Code Appeals, 11-141 - 11-160.

- 11-141. Composition.
- 11-142. Appointment.
- 11-143. Term of Office.
- 11-144. Vacancies.
- 11-145. Chairman.
- 11-146. Quorum.
- 11-147. Records
- 11-148. Procedure.
- 11-149. Appeals.
- 11-150. Variations and Modifications.
- 11-151. Decisions.
- 11-152-160 Reserved.

Art. III. Rental Property Registration and Inspections, 11-161 - 11-190.

- 11-161. Purpose and Intent.
- 11-162. Definitions.
- 11-163. Effective Date and Applicability.
- 11-164. Registration Of Rental Property.
- 11-165. Notice By Owner, Etc.
- 11-166. Inspection Of Rental Properties.
- 11-167. Code Enforcement Fees.
- 11-168. Entry.
- 11-169. Permits.
- 11-170. Violations.

- 11-171. Enforcement.
- 11-172. Temporary Waiver.
- 11-173. Severability.
- 11-174-190 Reserved

Art.IV. Vacant Property Registration, 11-191 – 11-210.

- 11-191 Vacant Building Registration.
- 11-192 Failure To Register.
- 11-193 Notice Of Assessment Of Penalty.
- 11-194-210 Reserved.

Art.V. Fees, 11-211 – 11-220.

- 11-211 Code Enforcement Fees.
- 11-212 Waiver Of Code Enforcement Fees.
- 11-213-220 Reserved

ARTICLE I. IN GENERAL

Sec. 11-1. Construction Regulations Adopted.

For the purpose of ensuring public safety, health and welfare, insofar as they are affected by building construction, to ensure public safety, health and welfare through proper use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility, and in general, to secure safety to life and property from all hazards incidental to the design, erection, repair, removal, demolition or use and occupancy of buildings, structures or premises, that certain regulations known as the Virginia Uniform Statewide Building Code, 2000 Edition Part I, General Regulations, and Part II, Construction, copies of which are on file in the office of the clerk of council and in the office of the Inspections Division of the Department of Community Planning and Development, are hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the corporate limits of the city. All future editions of the Virginia Uniform Statewide Building Code and all amendments thereto are hereby automatically adopted and incorporated into the City Code.

Sec. 11-2. Maintenance of Existing Structures Regulations Adopted.

For the purpose of ensuring public safety, health and welfare, insofar as they are affected by building construction, to ensure public safety, health and welfare through proper building maintenance, repair, use and continued compliance with minimum standards of building construction, energy conservation, water conservation, and physically handicapped and aged accessibility, that certain regulations known as the Virginia Uniform Statewide Building Code, 2000 Edition, Part I, General Regulations, and Part III, Maintenance of Existing Structures, Chapter 34, Existing Structures, of the International Building Code, the International Property Maintenance Code, and all of the codes and standards referenced therein, copies of which are on file in the office of the Clerk of Council and in the Inspections Division of the Department of Community Planning and Development, are hereby adopted and incorporated as fully as if set out at length herein, and shall be controlling within the corporate limits of the city. Pursuant to the provisions of Section 1.13.39:2 of the Code of Virginia, future amendments to the sections of the Virginia Uniform Statewide Building Code, the International Building Code, The International Property Maintenance Code and the codes and standards referenced therein are also incorporated by reference herein. The City of Lynchburg in accordance with the provisions outlined in part III of the Virginia Uniform Statewide Building Code elects to apply the provisions of the maintenance of existing structures to industrialized buildings and manufactured homes. All future

editions of the Virginia Uniform Statewide Building Code and all amendments thereto are hereby automatically adopted and incorporated into the City Code.

Sec. 11-3. Code Remedial.

The code adopted by this chapter is hereby declared to be remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.

Sec. 11-4. Scope.

- a) The provisions of the code adopted by this article shall apply to the construction, alteration, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.
- b) No provision of the code adopted by this article shall be held to deprive any federal or state agency, or any municipal authority having jurisdiction, of any power or authority which it had on the effective date of the act from which this article is derived or of any remedy then existing for the enforcement of its orders, nor shall it deprive any individual or corporation of its legal rights as provided by law.

Sec. 11-5. Administrative Regulations.

The building commissioner is authorized to establish regulations and procedures as required to aid in the implementation and enforcement of the Virginia Uniform Statewide Building Code.

Sec. 11-6. Retaliation Against Tenants Prohibited.

Any owner or any other person, firm or corporation, or agent who shall retaliate against a tenant by increasing rent or decreasing services or by terminating a rental agreement because the tenant reported a violation of the provisions of this chapter to the building maintenance official or because the tenant cooperated with the building maintenance official in an investigation shall be guilty of a violation of this chapter and shall be punished as provided in Section 11-9 of this chapter.

Sec. 11-7. Requirements Not Covered By Code.

Any requirement necessary for the strength or stability of an existing or proposed building or structure, or for the safety of the occupants thereof, not specifically covered by the code, adopted by this chapter shall be determined by the building commissioner subject to appeal to the board of adjustments and appeals.

Sec. 11-8. Liability.

Any officer or employee, or member of the board of adjustments and appeals, charged with the enforcement of the code adopted by this chapter acting for the city in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer or employee because of such act performed by him in the enforcement of any provision of this code shall be defended by the city attorney until the final termination of the proceedings.

Sec. 11-9. Violation Penalties.

- a) Penalties, upon conviction, for violations of the Virginia Uniform Statewide Building Code shall be as set out in Section 36-106 of the Code of Virginia.
- b) Upon a reasonable showing to the Court by a landlord as defined in Section 55-248.41 of the Code of Virginia, that such landlord is financially unable to abate the lead-base paint hazard, the Court shall order any rental agreement relating to the affected premises terminated effective thirty (30) days from the entry of the Court Order. For the purposes of the proceeding sentence, termination of the rental agreement shall not be deemed non-compliance by the landlord pursuant to Section 55-248.21 of the Code of Virginia.
- c) Any prosecution under this section shall be commenced within the time period provided in Section 19.2-8 of the Code of Virginia.

I. Sec.11-10. Conflicts.

In the event that any conflict arises between the provisions of these codes with amendments thereto, adopted by this section, and any other state law or city ordinance, rules or regulations, the most restrictive provisions shall prevail and be controlling.

Sec 11-11 – 11-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. DIVISION OF INSPECTIONS

Sec. 11-31. Building Commissioner.

There is hereby continued in the department of community planning and development a division of inspections. The executive in charge of this division shall be referred to as the building commissioner, who shall serve as the building official and building maintenance official for the city. Whenever the words “building department” or “department” are used in the codes adopted by this chapter, they shall mean the division of inspections, and all other agencies to which the division of inspections delegates enforcement powers, except where the context clearly indicates a different meaning. The building commissioner is to be appointed by the city manger.

Sec. 11-32. Delegation of Duties and Powers.

The building commissioner shall have the authority to delegate duties and powers to proper technical assistants, the city fire marshal's office, the Lynchburg health department and other appropriate agencies to assist the division of inspections in the enforcement of this code.

Sec. 11-33. Deputy.

The building commissioner may designate as deputy for the building official and building maintenance official an employee of the division who shall, during the absence or disability of the building official or building maintenance official, exercise all the powers of the building official.

Sec. 11-34. Restrictions On Employees.

No official or employee connected with the inspections division, except one whose only connection is as a member of the board established by this chapter, shall be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building or in the making of plans or specifications therefore, unless he is the sole owner of such building. No such official or employee shall engage in any work which is inconsistent with his duties or with the best interest of the inspections division.

Sec. 11-35. Reports.

The building commissioner shall annually submit a report to the director of community planning and development covering the work of the department during the preceding year. He shall incorporate in said report a summary of the decisions of the board of adjustments and appeals during said year.

Sec. 1136 – 11-50. Reserved.

DIVISION 2. ENFORCEMENT AUTHORITY.

Section 11.51. Notice of Violation – Failure To Comply.

If any person fails to comply with a properly issued notice of violations, the building commissioner is authorized by the city to obtain a summons or warrant for failure to correct the violation(s) as allowed by the Virginia Uniform Statewide Building Code.

Section 11.52. Refusal To Issue Certificate Of Occupancy.

The building commissioner shall have the authority to refuse a certificate of occupancy to any person who fails to correct any violation of this chapter within the time prescribed in a written notice from the building official. If such violation shall continue beyond the time specified in said notice, the building official shall have authority to revoke all licenses and permits of such person.

Section 11.53. Revocation Of Certificate of Occupancy.

The building commissioner shall have the authority to revoke a permanent or temporary certificate of occupancy for the repeated failure to correct property maintenance violations.

Section 11-54. Suspension Or Revocation Of Business license.

The building commissioner shall have the authority to revoke or suspend the city business license of any person for any failure to comply with the provisions of this code or with the rules and regulations of the building commissioner insofar as the same may apply to the provisions of the Virginia Uniform Statewide Building Code in the city.

Section 11.55. Emergency Repairs.

The building maintenance official shall have the authority to make emergency repairs to existing structures as expeditiously as possible, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such unsafe structure.

Section 11-56. Public Removal.

Whenever the owner of a structure fails to comply with the requirements of the notice of unsafe structure, the building maintenance official may cause the structure to be razed or removed. If the unsafe structure presents an imminent and immediate threat to life or property, then the building maintenance official may abate, raze, or remove such unsafe structure, and bring an action against the responsible party to recover the necessary costs incurred for the provision of public emergency services reasonably required to abate any such unsafe structure.

Sec. 11.57 – 11-70. Reserved.

Division 3. CONTRACTOR AND BONDING REQUIREMENTS.

Sec. 11-71. Applicability of Chapter Provisions to Homeowners.

Nothing contained within this chapter shall prevent any homeowner from construction, repair, improvements, or re-improvements on his own residence or a residence of his immediate family, provided the owner does the work himself or with his own employees and the homeowner complies with the requirements of section 54.1-1100 and 54.1-1101 of the Code of Virginia and signs an owner/builder affidavit as provided by the division of inspections when obtaining a permit. This provision does not convey the right to violate any of the provisions of this chapter, neither is it to be construed as exempting any property owner from obtaining a permit and having the work inspected nor from paying the required fees.

Sec. 11-72. Contractor's License Required.

It shall be the duty of every contractor or builder or demolition contractor, who shall make contracts for the erection or construction or repair or demolition of buildings or structures for which a permit is required, in the city, and every contractor or builder or demolition contractor making such contracts and/or subletting the same, or any part thereof, to comply with licensing requirements as specified in the Virginia Department of Professional and Occupational Regulations.

Cross reference -- Contractor's and contracting license fee, § 36-124.

Sec. 11-73. Business License Required.

It shall be the duty of all contractors doing work in the city must apply for and obtain a business license as required by Chapter 36 of the city code.

Sec. 11-74. Surety Bond Required.

It shall be the further duty of every such person holding a Class "C" or Class "B" contractors license to give good and sufficient bond in the sum of five thousand dollars (\$5,000.00) to be approved by the city attorney, conditioned to conform to the Virginia Uniform Statewide Building Code regulations, the regulations of this section, and other ordinances of the city in reference to buildings. Class "A" contractors are exempt from the requirements of this section.

Sec. 11-75. Bond Renewal.

The city attorney, through the inspections division, shall require that all bonds as required by Section 11-74 shall be renewed upon the expiration of the term for which they may be given and the failure on

the part of any person to renew such bond immediately upon the expiration of such term shall have the same effect as if no bond had been given.

Sec. 11-76. Limit of Liability.

Nothing contained in Section 11-74 shall be construed to limit the liability of the principal obligor in any bond as referred to in such section to the amount named as the penalty therein, either to any person injured or to the city. Nothing contained in such sections shall be construed as recognizing on the part of the city any claim or right of action against the city growing out of this section in favor of any person.

Sec. 11-77. Use of Name or License by Other Persons Prohibited.

No licensed contractor shall allow the use of his name or license by any person, directly or indirectly, either for the purpose of obtaining a permit, or to do any work under his license, unless the person is regularly employed by the licensed contractor.

Sec. 11-78. Master Tradesman In Control Of Work.

Where any electrical, plumbing, mechanical, gas or other trades work requiring a permit is being done, a master tradesman in the appropriate trade who holds a valid and current trades card recognized by the Commonwealth of Virginia, shall at all times be in control of the work being performed. Homeowners are exempt if they comply with Section 11-71 of the city code and demonstrate a working knowledge of the trade being performed. The building commissioner may require a homeowner to obtain the services of a master tradesman where work has been repeatedly rejected for non-compliance.

Sec. 11-79. Building Official May Refuse Permits for Non-Compliance.

If any contractor fails to comply with the rules and regulations of this article or any other rules and regulations governing the work which from time to time may be enacted by the Council, then he shall be notified in writing by the Building Official wherein the rules and regulations are not being observed, and if after the notice has been sent to the contractor, a recurrence of noncompliance to the rules and regulations exists, the Building Official shall have the authority to refuse any permits for future work to be done by the contractor.

Sec. 11-80. When Issuance Prohibited.

No permit shall be issued to any person while he refuses to comply with any lawful requirements of the inspections division nor while he refuses to pay any fees or charges lawfully assessed against him by the inspections division. During the time that any revocation or suspension of a city business license by the building commissioner under section 11-54 shall be in effect, no permit shall be issued to any person affected by such suspension or revocation.

Sec. 11-81. Permits Not Transferable; Responsibility For Work.

No work authorized by a permit shall be undertaken except by the person to whom such permit is issued or by authorized persons in his employ. The person in whose name the permit is issued shall assume complete responsibility for the work.

Sec. 11-82 – 11-100. Reserved.

Division 4. TECHNICAL PROVISIONS

Sec. 11-101. Suitable Zone On Each Pole to be Reserved for City.

On any pole of any electric light, power, street, railway, telephone, or telegraph company used jointly by two or more companies, each company shall be allotted a special zone, and shall confine its wires to that zone. Spaces shall be measured from the tops of poles downward, and a suitable zone on every pole shall at all times be reserved for the free use of the City.

Sec. 11-102. Construction in Streets & Public Places.

No electrical devices or fixtures shall be constructed, erected, strung, laid, maintained, changed or altered above, below or in any street, avenue, park or public place in any part of the city, nor shall any extension of the electrical conductors, either overhead or underground, be made without the written consent of the director of public works or the director of engineering prior to making application for the issuance of a permit for the installation.

Sec. 11-103. Repair of Existing Buildings.

- a) If, within any period of twelve (12) months, alterations or repairs costing in excess of fifty (50) per cent of the then physical value of the building are made to an existing building, such building shall be made to conform to the requirements of the building code for new buildings.
- b) If an existing building is damaged by fire or otherwise in excess of fifty (50) per cent of its then physical value before such damage is repaired, it shall be made to conform to the requirements of the building code for new buildings.
- c) If the cost of such alterations or repairs, or the amount of such damage, is more than twenty-five (25) per cent but not more than fifty (50) per cent of the then physical value of the building, the portions to be altered or repaired shall be made to conform to the requirements of the building code for new buildings to such extent as the building official may determine.
- d) For the purpose of this section physical value of the building shall be determined by the building official.
- e) Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of the building code or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than twenty-five (25) per cent of the roof covering of a building shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the building code for new buildings.

Sec. 11-104. Termination Of Service For Dangerous Conditions.

The building Commissioner shall also make a like examination whenever so requested in writing by any citizen, or when he may deem it in the public interest. If building commissioner shall find after examination that such condition as to endanger life or property, he shall forthwith cause the electrical, gas or other utility service to be disconnected from the building, unless such defective conditions are immediately remedied.

Secs. 11-105-120. Reserved.

Division - 5. PERMITS

Sec. 11-121. Failure to obtain.

If any person commences any work on a building or structure before obtaining the necessary permit from the city, he shall be subject to the penalty prescribed herein.

Sec. 11-122. Building Valuations.

- a) The owner or his duly authorized agent shall, upon making application for a building permit, furnish the building official with his best estimate of the total cost of the construction. Upon the completion of the work, he, or his duly authorized agent, shall report to the building official on a form furnished by the inspection division the final cost, including heating, plumbing and lighting of said structure, alteration, addition, improvement or repair. This final cost to be submitted prior to receiving the certificate of occupancy for the structure.
- b) Total Cost of Construction is defined as the actual cost incurred by the owner, all contractors, subcontractors and other parties for labor, material, equipment, profit, and incidental expenses for the entire project. This does not include the cost of design services unless those services are included in a construction contract.

Sec. 11-123. Demolition Permits.

A demolition permit shall carry with it the following requirements:

- a) All demolition projects shall be commenced without undue delay and shall be diligently carried on to satisfactory completion and, in any event, shall be completed within ninety (90) days from the date the permit is issued.
- b) When a building has been demolished and no building operation has been projected or approved, the vacant lot shall be cleared of all rubbish and materials, and all excavations shall be filled to existing grade at the original building site so that the premises are left in a safe and sanitary condition. The lot shall be maintained free from the accumulation of rubbish and all other unsafe or hazardous conditions which endanger the life or health of the public; and provision shall be made to prevent the accumulation of water or damage to any foundation on the premises or the adjoining property.
- c) All sewer lines or connections must be permanently sealed by plugging them with concrete or concrete mortar, and all gas, water and electric services shall be disconnected at the property lines.
- d) It shall be the duty of every person who shall make contracts for the demolition of buildings for which a permit is required to give good and sufficient bond as required by section 11-74.
- e) It is required that the division of inspections be notified upon completion of the demolition project in order that the premises be inspected for compliance with the above requirements.

Secs. 11-124-140. Reserved.

DIVISION - 6. BOARD OF BUILDING CODE APPEALS

Sec. 11-141. Composition.

There is hereby continued in the city a board to be called the Board of Building Code Appeals, which shall consist of seven (7) members. If qualified volunteers are available the members of the board shall include one member who is a licensed architect, one member who is a licensed engineer, one member who is a licensed class a building contractor, one member who is a licensed class a electrical contractor, one member who is a licensed class a plumbing or mechanical contractor, one member who is an experienced property manager and one citizen member from the city at-large. In the event qualified volunteers for one or more of the designated categories of members are not available, city council shall select at-large members on the basis of their ability to render fair and competent decisions regarding the application of the building and fire codes. At least one member of the board should be an experienced builder and one member a licensed professional engineer or architect and one member an experienced property manager.

Sec. 11-142. Appointment.

The members of the board of building code appeals shall be appointed by the city council.

Sec. 11-143. Term Of Office.

The present membership of the board of building code appeals, heretofore appointed by the city manager, are hereby re-appointed and continued in office for the duration of their present terms, and thereafter they shall be appointed for terms of four (4) years.

Sec. 11-144. Vacancies.

Vacancies occurring in the membership of the board of building code appeals shall be filled for the unexpired term in the manner in which original appointments are required to be made

Sec. 11-145. Chairman.

The board of building code appeals shall elect its own chairman from its membership

Sec. 11-146. Quorum.

- a) Four (4) members of the board of building code appeals shall constitute a quorum. In varying the application of any provisions of the building code or in modifying an order of the building official, affirmative votes of the majority present, but not less than three (3) affirmative votes shall be required. No board member shall act in a case in which he has a personal interest.
- b) When five members of the board of building code appeals are not present to hear an appeal, either the applicant or the applicant's representative shall have the right to request a postponement of the hearing. The board shall reschedule the appeal within thirty (30) calendar days of the postponement, or a longer period of time if agreed to by all parties to the appeal

Sec. 11-147. Records.

The building commissioner shall act as secretary of the board of building code appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member, and any failure of a member to vote.

Sec. 11-148. Procedure.

The board of building code appeals shall establish rules and regulations for its own procedure not inconsistent with the provisions of the building code. The board shall meet at regular intervals, to be determined by the chairman, or in any event, the board shall meet within thirty (30) calendar days after a notice of appeal has been received. Notice indicating the time and place of the hearing shall be sent to the parties in writing to the addresses listed on the application at least fourteen (14) calendar days prior to the date of the hearing. Less notice may be given if agreed upon by the applicant

Sec. 11-149. Appeals.

a) Whenever the building commissioner shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of the building code do not apply, or when it is claimed that the true intent and meaning of the building code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the building official to the board of building code appeals. Notice of appeal shall be in writing and filed within twenty-one (21) days after the decision is rendered by the building official. Failure to submit an application for appeal within twenty-one (21) days shall constitute acceptance of the building official's decision.

b) In case of a building or structure which, in the opinion of the building commissioner, is unsafe or dangerous, the building commissioner may, in his order, limit the time for such appeal to a shorter period. Appeals hereunder shall be on forms provided by the building commissioner.

Sec. 11-150. Variations And Modifications.

a) The board of building code appeals, when appealed to and after a hearing, may vary the application of any provision of the building code to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to the spirit and purpose of the building code or public interest, or when, in its opinion, the interpretation of the building official should be modified or reversed.

b) A decision of the board of building code appeals to vary the application of any provision of the building code or to modify an order of the building official shall specify in what manner such variation or modification is made, the conditions upon which it is made and the reasons therefore.

Sec. 11-151. Decisions.

a) Every decision of the board of building code appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the office of the building commissioner, and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the building official for two (2) weeks after filing.

b) The board of building code appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

- c) If a decision of the board of building code appeals reverses or modifies a refusal, order or disallowance of the building commissioner, or varies the application of any provision of the building code, the building official shall immediately take action in accordance with such decision.
- d) The board of building code appeals shall recommend to council, through the city manager, from time to time, such amendments to the building code as in their opinion and from their experience are necessary and advisable.

Secs. 11-152—160. Reserved.

ARTICLE III. RENTAL PROPERTY REGISTRATION & INSPECTIONS

Sec. 11-161. Purpose And Intent.

The city council finds that residential rental housing, when not the subject of regular inspections to ensure compliance with applicable occupancy, building maintenance, and property maintenance regulations, may become unsafe, a public nuisance, and unfit for human habitation. Residential rental housing is subject to overcrowding, structural deterioration, and an overall neglected appearance. These conditions can lead to a decline in neighborhood quality of life, neighborhood appearance, and the value of real estate. This division is adopted to protect the public health, safety and welfare in rental dwellings and dwelling units located within those areas of the city determined by city council herein to be in need of a special program of housing inspections. This program is designed and intended to prevent property deterioration and neighborhood blight in designated areas by requiring proper building maintenance and continued compliance with applicable building regulations.

Sec. 11-162. Definitions.

- a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.
- b) Building Maintenance Official. The officer or other designated authority charged with the administration and enforcement of this ordinance and the USBC, or a duly authorized representative.
- c) Certificate of compliance. A certificate of compliance is a written document issued by the inspections division confirming that a dwelling unit has been inspected. A certificate of compliance will be issued after a dwelling unit has been inspected by the inspections division and has no violations outstanding. The unit may be rented.
- d) Certificate of registration. A certificate of registration is a written document issued by the inspections division confirming that a rental property has been properly registered as required by section 11-62.3 of this division. The building official will issue a certificate of registration after the inspections division has received a completed registration form and accompanying certification that the property meets the minimum habitable standards. A certificate of registration will be issued in place of a certificate of compliance where a rental dwelling unit has not been inspected by City of Lynchburg inspectors. The unit may be rented.

- e) Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- f) Inspections division. The section of the department of community planning and development responsible for enforcement of the property maintenance code of the City of Lynchburg.
- g) Minimum habitable standards. The requirements for compliance as outlined in Part III, USBC, Maintenance of Existing Structures, Part IV, USBC, Technical Amendments, and Chapters 3 through 7 of the International Property Maintenance Code, as adopted by the Virginia Uniform Statewide Building Code.
- h) Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.
- i) Property. The word “property” shall mean dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word “property” shall include dwelling units occupied under a lease/purchase agreement.
- j) USBC. Virginia Uniform Statewide Building Code.

Sec. 11-163. Effective Date And Applicability.

In order to protect the public health, safety and welfare the areas described in this section are designated as conservation and rehabilitation areas as provided by Section 36-105 of the Code of Virginia for the purpose of conducting inspections at specific time intervals in order to determine that the buildings are in compliance with current building code regulations. The provisions of this division shall be applicable to all rental dwelling units ,whether occupied or not, that are located in the following areas of the city:

- a) That area of the city designated as census tract #4 by the 2000 Census Data.
- b) That area of the city designated as census tract #5.00 by the 2000 Census Data.
- c) That area of the city designated as census tract #6 by the 2000 Census Data.
- d) That area of the city designated as census tract #7 by the 2000 Census Data.
- e) That area of the city designated as census tract #11 by the 2000 Census Data.
- f) That area of the city designated as census tract #12 by the 2000 Census Data.
- g) That area of the city designated as census tract #13 by the 2000 Census Data.

The census tracts identified above encompass that area of the city beginning at the eastern corporate limit of the city, thence northwest along the James River and the corporate limits of the city to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracks to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Hillcrest Avenue, northwest on Page Street to Tate Springs Road

following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Memorial Avenue, southwest on Memorial Avenue to Fort Avenue continuing northeast on said road to its intersection with Rutherford Street, continuing on Rutherford Street southeast to its intersection with Craighill Street, thence southeast on Craighill Street to its intersection with Edley Place, continuing southeast on Edley Place to its intersection with the Norfolk Southern Railway tracks, south along the said tracks to a railroad intersection, continuing southeast along Norfolk Southern Railway tracks to their intersection with the southeastern corporate limits of the city; thence northeast along the corporate limits of the city to the point of beginning.

Sec. 11-164. Registration Of Rental Property Required.

- a) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall make such property available as rental property until said dwelling unit shall have been registered with the building maintenance official prior to occupancy. The owner or agent shall certify on a registration form provided by the building maintenance official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Receipt of this certification shall be evidenced by a certificate of registration issued by the building maintenance official and to be displayed in the rental unit.
- b) Except in the case of an emergency involving a threat to life and property, as determined by the building maintenance official, no electric power company or gas company shall commence electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of registration has been issued for such property.

Sec. 11-165. Notice By Owner, Etc.

- (a) On or before January 1 of each year, and within sixty (60) days of the transfer of ownership or a change in the managing agent of any rental dwelling unit, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the building maintenance official, in writing, with a registration renewal form provided by the building maintenance official for all rental properties that they own or manage in those areas of the city that are covered by this division.
- (b) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall continue to make such property available after January 1 of each year as rental property until said dwelling or dwelling unit shall have been registered with the building maintenance official. The owner or agent shall certify on a renewal registration form provided by the building maintenance official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Such receipt of this certification compliance shall be evidenced by a certificate of registration issued by the building maintenance official to be displayed in the rental unit.
- (c) In the event the building maintenance official furnishes the owner or managing agent with information forms requesting certain information regarding rental properties, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the building maintenance official within the designated time period.

(d) It shall be a violation of this division for an owner or managing agent to fail or refuse to register any rental dwelling unit with building maintenance official or to provide false or misleading information.

Sec. 11-166. Inspection Of Rental Properties.

a) The building maintenance official shall cause periodic inspections to be made of dwelling units located in those areas of the city covered by this division to ensure compliance with this division. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this division and also may result in revocation of the certificate of registration or certificate of compliance.

b) Upon determination that the dwelling unit is in compliance with Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent.

c) Periodic inspections for a specific property under this section shall not occur more than once each calendar year.

d) Nothing in this division shall prohibit an inspection of any rental dwelling unit for a possible violation of the Virginia Uniform Statewide Building Code pursuant to a complaint.

Section 11-167. Code Enforcement Fees.

There shall be a code enforcement fee paid annually to cover the cost of the registration and periodic inspection of each dwelling unit located in those areas of the city covered by this division. When an inspection is performed as a result of a periodic inspection or a complaint, there shall be no additional code enforcement charge for this inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no additional code enforcement charge for the second follow-up inspection. In the event a third or subsequent inspection is required, the owner shall be charged a reinspection fee for each inspection of a dwelling unit. The code enforcement and reinspection fees will be as established by city council from time to time by resolution and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request. No certificate of compliance shall be issued until all code enforcement fees have been paid and all violations have been corrected.

Sec. 11-168. Entry.

For the purpose of enforcing provisions of this division, the building maintenance official, or his duly authorized agent, shall have the right to inspect any dwelling or dwelling unit within designated areas identified in Section 11-163 of this division at any reasonable time. No inspection shall be conducted without the consent of the tenant, occupant, property owner or managing agent (if the property owner or managing agent have reserved a right of re-entry in order to inspect the premise) or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means. In the event the building maintenance official, or his duly authorized agents shall be denied access to a dwelling or dwelling unit, he or she may apply for an administrator inspection warrant in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, or other person, to deny the building maintenance official, or his duly authorized agent, access to any dwelling or dwelling unit within the areas covered by this division after the building maintenance official, or his duly authorized agent have obtained an administrative inspection warrant for such dwelling or dwelling unit.

Sec. 11-169. Permits.

The owner is responsible for complying with all permit and licensing requirements required by the Virginia Uniform Statewide Building Code and other ordinances in effect for the City of Lynchburg.

Sec. 11-170. Violations.

- (a) It shall be unlawful for any owner to fail to comply with the requirements contained in this division.
- (b) Any person failing to comply with the requirements of this division shall be punishable by a fine of not more than \$2,500. Each day such violation continues shall constitute a separate punishable offense.
- (c) If any violation remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation and to bring the property into compliance with the Uniform Statewide Building Code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense.

Sec. 11-171. Enforcement.

The building maintenance official and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby. The building maintenance official may establish such administrative procedures as may be necessary for the administration and enforcement of this article.

Sec. 11-172. Temporary Waiver.

Any owner or managing agent whose rental property is inspected and found not to be in compliance with the code may petition the building maintenance official, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the building maintenance official and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the building maintenance official finds that:

- a) The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and
- b) The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere when the dwelling or dwelling unit will not be habitable because of the work of correcting violations; the building official may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This period shall not be less than thirty (30) days nor more than sixty (60) days. The applicant shall, on or before such date, request a reinspection and pay any code enforcement fee that may be required by Section 11-167 of this division.
- c) No waiver granted under this section shall be valid unless in writing and signed both by the building maintenance official or his designee and the applicant.

Sec. 11-173. Severability.

The provisions of this division are intended to be severable, and if any such provision be deemed or adjudged to be invalid or unenforceable, the remaining portions of this division shall remain in full force and effect with their validity unimpaired.

Secs. 11-174—190. Reserved.

ARTICLE IV. VACANT PROPERTY REGISTRATION

Sec. 11-191. Vacant Building Registration.

On or before January 1 of each year, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall register with the building maintenance official on forms developed by the Inspections Division, the address of any buildings they own or manage which have been vacant for a continuous period of twelve months or more. Every person filing registration forms with the building maintenance official shall pay an annual registration fee of twenty-five dollars (\$25.00) to defray the cost of processing the registration.

Sec. 11-192. Failure To Register.

Any person who fails to register a vacant building by the January 1 deadline shall be subject to a fifty dollar (\$50.00) civil penalty. Any person who fails to register any vacant building that is located in a conservation and rehabilitation district or any building that has been designated as blighted pursuant to the provisions of Section 36-49.1:1 of the Code of Virginia, shall be punished by a civil penalty not exceeding two hundred fifty dollars (\$250.00) for each building that is not registered.

Sec. 11-193. Notice Of Assessment Of Penalty.

At least thirty (30) days prior to the assessment of any civil penalty, the inspections division shall mail the owner, or managing agent, or the duly authorized representative acting on behalf of the owner or managing agent, at the address to which property tax notices are sent notice of the failure to comply with the registration requirements of this section.

Secs. 11-194—210. Reserved

ARTICLE V. FEES

Sec. 11-211. Code Enforcement Fees.

No permit shall be issued until the required fees shall have been paid, nor shall an amendment to a permit be approved until the additional fee, if any, due to an increase in the dimensions or size of the building or structure, shall have been paid. The fees for building permits will be as determined by city council from time to time and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request.

Sec. 11-212. Waiver Of Code Enforcement Fees.

Any of the code enforcement fees required by Sec. 11-211 of this article may be waived for a business which is designated as a technology business and which business locates in either of the city's

technology zones on or after July 1, 2002. The city's director of economic development, after consultation with the Lynchburg Industrial Development Authority, will determine which, if any, code enforcement fees will be waived.

Secs. 11-213—220. Reserved.

3. That this ordinance shall be retroactive and shall be effective as of October 1, 2003.

Adopted:

Certified:

Clerk of Council

182L